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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/509,301	06/13/2000	HAROLD JAY WILLIAM	11750-002001	7680

7590

03/28/2003

JOHN F HAYDEN  
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WASHINGTON, DC 20005

EXAMINER

BARRY, CHESTER T

ART UNIT

PAPER NUMBER

1724

DATE MAILED: 03/28/2003

14

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/509,301

Applicant(s)

WILLIAM, HAROLD JAY

Examiner

Chester T. Barry

Art Unit

1724

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE \_\_\_\_ MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☐ Claim(s) \_\_\_\_ is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_ is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

Art Unit: 1724

Claims 1 – 12 are rejected under 35 USC 35 U.S.C. Sec. 102(b) as anticipated by WO 94/00237 to Monash University (published 6 January 1994)(hereinafter "Lawson").

Lawson describes a material comprising an ion exchange material dispersed or distributed within a polyurethane polymer. The polyurethane polymer may be swollen by toluene (page 7 line 36). Accordingly, given the broadest reasonable construction of the claims that is not inconsistent with the specification, Lawson's material is "superabsorbent."

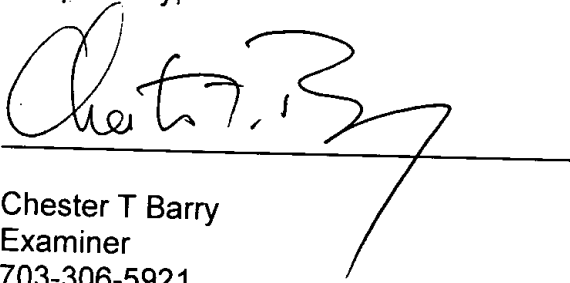
Claims 1 – 12 are rejected under 35 USC §112(2<sup>nd</sup>) as failing to particularly point out and distinctly claim the subject matter for which patent protection is sought. The distinction, if there is one, between the Lawson disclosure and the invention of at least claims 1 and 6, lies in a reasonably precise understanding of the distinction between a "superabsorbent" polyurethane foam and other polyurethane foam materials that are not fairly characterized as "superabsorbent." The art of record does not appear to provide a reasonably precise standard by which this distinction may be made with a reasonable degree of certainty. Applicant's specification does not provide a reasonably clear

Application/Control Number: 09/509,301  
Art Unit: 1724

Page 3

definition of what applicant regards as a "superabsorbent" polymer in terms that provide the public with fair notice of the metes and bounds of the claimed subject matter.

Respectfully,

A handwritten signature in black ink, appearing to read "Chester T. Barry", is written over a horizontal line. The signature is stylized with a large initial "C" and a long, sweeping tail that extends below the line.

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Chester T Barry  
Examiner  
703-306-5921